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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,373	11/28/2000	Nancy L. Saxon	60,130-868	9170

7590 07/19/2002

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EXAMINER

GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/724,373

Applicant(s)

SAXON ET AL.

Examiner

Randy W. Gibson

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov. 28, 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-7, 12-14, and 16-19 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kyrtos. Kyrtos discloses the claimed invention including at least one load sensor (Col. 2, lines 30-48; Col. 3, ln. 58 to col. 4, ln. 7), a display (Col. 2, lines 64-67), an evaluation unit (Col. 2, lines 58-63), and a memory unit for storing load optimization data (Col. 2, lines 49 –57; Col. 3, lines 36-57) which includes vehicle performance data (Col. 5, lines 30-35).

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3. Claims 1-5, 9, 10, 12-14, 16, and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Baker. See column 4, line 49 to column 6, line 40.

4. Claims 1-6, 9, 10, 12-14, and 16-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stevenson. See column 7, lines 28-50 and column 8, lines 14-50.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyrtos in view of Reiner et al. Kyrtos discloses the claimed invention, as discussed *supra*, except he does not use vehicle power train information. However, Reiner et al teach that it is known to use vehicle power train information as an indicator of vehicle weight. Since Kyrtos expressly state that the specific type of on-board vehicle weighing means is not critical to his invention, therefore any known weight sensing technique may be used, it would have been obvious to use power train information as a means for determining weight, as taught by Reiner et al, in the system of Kyrtos motivated by its art recognized suitability for its intended use; see *In re Leshin*, 227

F.2d 197, 125 USPQ 416 (CCPA 1960); *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 0(Fed. Cir. 1988); and, *MPEP* § 2144.07.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson in view of Bradley. Stevenson discloses the claimed invention, as discussed *supra*, except he weighs his trailer by measuring the air pressure in the air springs of a vehicle instead of using weight information from the strain on the vehicle axles and the king pin assembly. Bradley teach that weighing a trailer by measuring strain on the trailer axes and the king pin assembly is an old art recognized alternative (Col. 1, lines 16-25) to the air bag weighing system of Stevenson, and Bradley also suggests that such a system has the additional advantage of facilitating trailer swapping by placing the entire load weighing system in the trailer itself (Col. 2, lines 15-23) – something that would be less practical with an air spring weighing system since the load on the kin pin of the trailer of Stevenson has to be indirectly measured by sensing the air pressure in the rear suspension of the tractor of Stevenson. It would have been obvious to modify the system load distribution system of Stevenson to use the load sensing devices of Bradley since this method of sensing trailer load are at recognized functional equivalents and that the system of Bradley has the additional advantage of facilitating trailer swapping. See *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); and, *MPEP* § 2144.06.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Davis et al. Baker discloses the claimed invention, as discussed *supra*, except he does not have a hand held remote. Davis et al teach that the use of hand held remotes are known in the vehicle weighing art (Col. 5, lines 36-39). Since Baker discusses, in one embodiment, providing for remote access to the truck's on-board weighing information (Col. 5, line 64 to col. 6, line 40), it would have been obvious to the ordinary practioner in the art to provide the apparatus of Baker with a hand held remote, as suggested by Davis et al, for the convenience of the user.

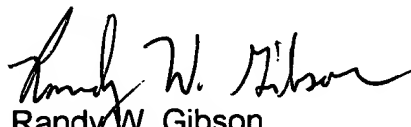
### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.

July 17, 2002

  
Randy W. Gibson  
Primary Examiner  
Art Unit 2841